EXHIBIT 6
DATE 3/19/09
HB 512

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Denise Juneau
Superintendent

March 9, 2009

TO: House Appropriations Committee

FROM: Joan Anderson, Assistant Superintendent of Operations

RE: Technical Amendments for HB 512

Please consider the following technical amendments in HB 512:

1) Clarify the additional 5% allowed in general fund reserves for budget stability is 5% of the *ensuing year general fund budget*, not 5% of the ending fund balance as currently written.

-- The current 10% operating reserve is based on ensuing year budget, not fund balance. This change would cause the additional 5% to be calculated the same as the 10% reserve, which would be reasonable and consistent.

2) Clarify that the unreserved fund balance of the general fund, i.e., the amount NOT reserved in the 15% amount, is the amount that can be transferred to Flex Fund or used to reduce over-BASE taxes.

-- As currently written, the total fund balance, including reserved and unreserved fund balances, could be transferred out. That could result in the total depletion of general fund reserves.

Amendments 1 and 2 would look like this:

"20-9-104. General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year AND FOR BUDGET STABILITY PURPOSES. ~~In addition, the trustees may designate up to 5% of the general fund end-of-the-year fund balance for budget stability purposes.~~ Except as provided in subsections (5) and (6), the combined amount of the general fund balance that is ~~earmarked~~ designated as operating reserve and for budget stability purposes may not exceed ~~10%~~ 15% of the final general fund budget for the ensuing school fiscal year. The trustees of a district may transfer any funds remaining in the district's general fund end-of-the-year UNRESERVED FUND balance into the school flexibility account established in 20-9-542 or may apply it to reduce the over-BASE budget levy as defined in 20-9-306.

3) Set the effective date at June 30, 2009 instead of the first day of FY 10 (July 1, 2009).

-- Reserves are officially set as of June 30. This change would allow school districts to reserve the additional 5% end-of-year reserved fund balance on June 30 this year and budget for FY 10 as provided under this bill. If not changed, the new reserve amount could not be set aside until June 30, 2010.

You can reach me at (406) 444-2562 if you have questions. Thanks.

EXHIBIT 6
DATE 3/9/09
HB 512

DRAFT
03/06/09

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SCHOOL DISTRICT BONDING LAWS; ADDING TAX CREDIT BONDS TO THE DEFINITIONS OF TYPES OF BONDS; PROVIDING THAT OBLIGATIONS UNDER 20-9-471 THAT ARE TAX CREDIT BONDS MAY BE SOLD TO ANY PURCHASER; EXPANDING THE SCOPE OF THE OPERATING RESERVE UNDER THE GENERAL OBLIGATION DEBT SERVICE FUND BUDGET; AND ADDING PROVISIONS FOR ISSUING TAX CREDIT BONDS; AMENDING SECTIONS 20-9-408, 20-9-438, AND 20-9-471, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-9-408, MCA, is amended to read:

"**20-9-408. Definition of forms of bonds.** As used in this part, the following definitions apply:

(1) "Amortization bond" means that form of bond on which a part of the principal is required to be paid each time that interest becomes due and payable. The part payment of principal increases with each following installment in the same amount that the interest payment decreases, so that the combined amount payable on principal and interest is the same on each payment date. However, the payment on the initial interest payment date may be less or greater than the amount of other payments on the bond, reflecting the payment of interest only or the payment of interest for a period different from that between other interest payment dates. The final payment may vary from prior payments in amount as a result of rounding prior payments.

(2) "General obligation bonds" means bonds that pledge the full faith and credit and the taxing power of a school district.

(3) "Impact aid revenue bonds" means bonds that pledge and are payable solely

from federal impact aid basic support payments received and deposited to the credit of the fund established in 20-9-514.

(4) "Serial bonds" means a bond issue payable in annual installments of principal commencing not more than 2 years from the date of issue, any one installment consisting of one or more bonds, with the principal amount of bonds maturing or subject to mandatory sinking fund redemption in each installment, commencing with the installment payable in the fourth year after the date of issue, not exceeding three times the principal amount of the bonds payable in the immediately preceding installment.

(5) "Tax credit bonds" means any general obligation bonds, impact aid revenue bonds, bonds issued under 20-9-471, or any other bonds of a school district that have been duly authorized that are eligible for designation as and have been designated qualified zone academy bonds or qualified school construction bonds under Section 54E and Section 54F, respectively, of the Internal Revenue Code of 1986, as amended."

Section 2. Section 20-9-438, MCA, is amended to read:

" **20-9-438. Preparation of general obligation debt service fund budget -- operating reserve.** (1) The trustees of each school district having outstanding general obligation bonds shall include in the debt service fund of the final budget adopted in accordance with 20-9-133 an amount of money that is necessary to pay the interest and the principal amount becoming due or required to be deposited into the sinking fund established under [Section 4] during the ensuing school fiscal year for each series or installment of bonds, according to the terms and conditions of the bonds and the redemption plans of the trustees.

(2) The trustees shall also include in the debt service fund of the final budget:

(a) the amount of money necessary to pay the special improvement district assessments levied against the school district that become due during the ensuing school fiscal year; and

(b) a limited operating reserve for the school fiscal year following the ensuing school fiscal year as provided in subsection (3).

(3) Except as described in subsection (5) of this section, ~~At~~ at the end of each school fiscal year, the trustees of a school district may designate a portion of the end-of-the-year fund balance of the debt service fund to be earmarked as a limited operating reserve for the purpose of paying, whenever a cash flow shortage occurs, debt service fund warrants and bond obligations that must be paid from July 1 through November 30 of the school fiscal year following the ensuing school fiscal year. Any portion of the debt service fund end-of-the-year fund balance not earmarked for limited operating reserve purposes must be reappropriated to be used for property tax reduction as provided in 20-9-439.

(4) The county superintendent shall compare the final budgeted amount for the debt service fund with the bond retirement and interest requirement and the special improvement district assessments for the school fiscal year just beginning as reported by the county treasurer in the statement supplied under the provisions of 20-9-121. If the county superintendent finds that the requirement stated by the county treasurer is more than the final budget amount, the county superintendent shall increase the budgeted amount for interest or principal in the debt service fund of the final budget. The amount

confirmed or revised by the county superintendent is the final budget expenditure amount for the debt service fund of the school district.

(5) Amounts on deposit in the sinking fund established under [Section 4] that secure the repayment of tax credit bonds that do not mature annually constitute a restricted fund balance of the debt service fund, are not subject to reappropriation, and are irrevocably pledged to the repayment of tax credit bonds that mature in the future."

Section 3. Section 20-9-471, MCA, is amended to read:

"**20-9-471. Issuance of obligations -- authorization -- conditions.** (1) The trustees of a school district may, without a vote of the electors of the district, issue and sell to the board of investments or, to the extent permitted in subsection (8) of this section, any purchaser obligations for the purpose of financing all or a portion of:

(a) the costs of vehicles and equipment;

(b) the costs associated with renovating, rehabilitating, and remodeling facilities, including but not limited to roof repairs, heating, plumbing, and electrical systems;

(c) any other expenditure that the district is otherwise authorized to make, subject to subsection (4), including the payment of settlements of legal claims and judgments; and

(d) the costs associated with the issuance and sale of the obligations.

(2) The term of the obligation, including an obligation for a qualified energy project, may not exceed 10 fiscal years. For the purposes of this subsection, a "qualified energy project" means a project designed to reduce energy use in a school facility and from which the resulting energy cost savings are projected to meet or exceed the debt service obligation for financing the project, as determined by the department of

environmental quality.

(3) At the time of issuing the obligation, there must exist an amount in the budget for the current fiscal year available and sufficient to make the debt service payment on the obligation coming due in the current year. The budget for each following year in which any portion of the principal of and interest on the obligation is due must provide for payment of that principal and interest.

(4) Except as provided in 20-9-502 and 20-9-503, the proceeds of the obligation may not be used to acquire real property or construct a facility unless:

(a) the acquisition or construction project does not constitute more than 20% of the square footage of the existing real property improvements made to a facility containing classrooms;

(b) the 20% square footage limitation may not be exceeded within any 5-year period; and

(c) the electors of the district approve a proposition authorizing the trustees to apply for funds through the board of investments for the construction project. The proposition must be approved at a special or regular election in accordance with all of the requirements of 20-9-428, except that the proposition is considered to have passed if a majority of the qualified electors voting approve the proposition.

(5) An obligation issued is payable from any legally available fund of the district and constitutes a general obligation of the district.

(6) The obligation may bear interest at a fixed or variable rate and may be sold to the board of investments at par, at a discount, or with a premium and upon any other terms and conditions that the trustees determine to be in the best interests of the district.

(7) The principal amount of the obligation, when added to the outstanding bonded indebtedness of the district, may not exceed the debt limitation established in 20-9-406."

(8) If the obligations described in this section are tax credit bonds, then the obligations may be sold by the trustees of a school district to the Board of Investments or to any purchaser."

NEW SECTION. **Section 4. Tax Credit Bonds.**

(1) Notwithstanding any provision in this part to the contrary, general obligation bonds, impact aid revenue bonds, bonds issued under 20-9-471, or any other duly authorized bonds of a school district that are eligible for designation as and have been designated a tax credit bond may be issued and sold at public or private sale, may be payable and mature as to principal and interest, if any, on any date or dates, may be subject to redemption in whole or in part as determined by the trustees of the district, and may have such other terms and conditions that the trustees of the district deem to be in the best interests of the district.

(2) A separate fund or account in the debt service fund denominated a sinking fund must be established to pay tax credit bonds. The sinking fund may be held and administered by the county treasurer or a bond registrar appointed by the district in connection with the tax credit bonds.

(3) Amounts deposited in the sinking fund established to tax credit bonds may be invested at the direction of the district in investments, instruments, or securities described in 20-9-213(4) or as otherwise permitted by a school district.

(4) School districts may enter into and perform their obligations under such agreements or instruments as may be necessary or appropriate to make or implement the

investments described in subsection (3) of this section and, pursuant to the agreements or instruments, may direct the county treasurer or registrar of the tax credit bonds to make or implement those investments on behalf of the district.

(5) This section shall not limit or preclude the issuance of tax credit bonds by other governmental bodies or entities, including, without limitation, the Board of Investments of the State of Montana.

Section 5. Codification instruction. [Section 4] is intended to be codified as an integral part of [Title 20, chapter 9, part 4].

Section 6. Effective date. [This act] is effective on passage and approval.

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